

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 134

AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-21.5-7-5, AS AMENDED BY P.L.99-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. **Except as provided in IC 14-10-2-2.5**, an environmental law judge is the ultimate authority under this article for reviews of agency actions of the department of environmental management, actions of a board described in IC 13-14-9-1, and challenges to rulemaking actions by a board described in IC 13-14-9-1 made pursuant to IC 4-22-2-44 or IC 4-22-2-45.

SECTION 2. IC 4-21.5-7-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. A proceeding that is subject to the jurisdiction of both the office and the natural resources commission's division of hearings established under IC 14-10-2-2 may be consolidated under IC 14-10-2-2.5.**

SECTION 3. IC 14-10-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) A person who is the party in a hearing under this title or IC 4-21.5-7 may move to have the:**

- (1) environmental law judge appointed under IC 4-21.5-7; or**
- (2) administrative law judge appointed under section 2 of this chapter;**

consolidate multiple proceedings that are subject to the jurisdiction

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of both the office of environmental adjudication and the division of hearings.

(b) The environmental law judge or the administrative law judge shall grant the motion made under subsection (a) if the following findings are made:

(1) The proceedings include the following:

(A) Common questions of law or fact.

(B) At least one (1) person, other than the department or the department of environmental management, who is a party to all the proceedings.

(C) Issues of water quality, water quantity, or both.

(2) Consolidation may support administrative efficiency.

(c) If a motion to consolidate proceedings has been granted under subsection (b), the hearing must be conducted by a panel that consists of at least one (1) environmental law judge and one (1) administrative law judge. The panel is the ultimate authority for matters authorized under IC 4-21.5-7-5 and this title. Any party, including the department and the department of environmental management, may petition an appropriate court for judicial review of a final determination of the panel.

(d) The office of environmental adjudication and the division of hearings shall adopt joint rules to implement this section.

SECTION 4. IC 14-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Except as provided in **section 2.5 of this chapter** and IC 14-34-2-2, the commission is the ultimate authority of the department under IC 4-21.5.

SECTION 5. IC 14-34-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The commission shall appoint the following:

(1) An administrative law judge to conduct proceedings under IC 4-21.5. An administrative law judge is subject to IC 14-10-2-2.

(2) A hearing officer to conduct proceedings under IC 4-22-2.

(b) An administrative law judge is the ultimate authority for the department for any administrative review proceeding under this article, except for the following:

(1) Proceedings concerning the approval or disapproval of a permit application or permit renewal under IC 14-34-4-13.

(2) Proceedings for suspension or revocation of a permit under IC 14-34-15-7.

(3) Proceedings consolidated with the office of environmental adjudication under IC 14-10-2-2.5.

(c) An order made by an administrative law judge granting or

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denying temporary relief from a decision of the director is a final order of the department.

(d) Judicial review of a final order made by an administrative law judge under subsection (b) or (c) or under IC 13-4.1-2-1(c) or IC 13-4.1-2-1(d) (before their repeal) may be taken under IC 4-21.5-5.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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